

## MATERIAL COPYRIGHTED AS PART OF A GRANT

### A. Introduction

In some cases, a State Library Administrative Agency (SLAA) or subrecipient may copyright material that it has developed. There are three major issues to consider with respect to material copyrighted under a grant: the federal (IMLS) interest; the use of income by the copyrighter during the life of the grant; and the use of income after the completion of the grant. **2 CFR 200 Subpart D** covers these areas. In addition, an SLAA may include conditions in its agreement with a subrecipient that could impact copyrighted material.

### B. Federal (IMLS) Interest

The regulations are very specific in granting IMLS free use of the material under specific conditions:

**§ 200.315 (b) Intangible Property.**

*The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use the work for Federal Government purposes and to authorize others to do so.*

### C. Program Income during the Grant Period

IMLS generally does not require grantees to count income from copyrighted material as income to offset the grant award.

**§ 200.307 Program income.**

*(a) General. Non-Federal entities are encouraged to earn income to defray program costs where appropriate.*

*Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, from the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. (2 CFR 200.80)*

*(g) Unless the Federal statute, regulations, or terms and conditions for the Federal award provide otherwise, the non-Federal entity has no obligation to the Federal awarding agency with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions made under a Federal award to which 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements” is applicable.*

#### **D. Program Income after the completion of the Federal award**

While IMLS maintains its right to free use of the copyrighted material (under the conditions cited above) after the completion of the Federal award, it places no restrictions on the use of income.

##### ***§ 200.307 Program income.***

*(f) Income after the period of performance. There are no Federal requirements governing the disposition of program income earned after the end of the period of performance for the Federal award, unless the Federal awarding agency regulations or the terms and conditions of the Federal award provide otherwise.*

*Updated 12/18/2015*